

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

LEON SUMLIN a/k/a )  
LEONARD SUMLIN, )  
                       )  
Plaintiff,           )  
                       )  
VS.                   )                          No. 14-2344-JDT-cgc  
                       )  
BARRY DOSS, ET AL., )  
                       )  
Defendants.          )

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ORDER DIRECTING ENTRY OF JUDGMENT,  
CERTIFYING AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH  
AND DENYING LEAVE TO APPEAL *IN FORMA PAUPERIS*

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On May 8, 2014, Plaintiff Leon Sumlin a/k/a Leonard Sumlin, who was incarcerated at the Shelby County Correctional Center in Memphis, Tennessee, filed a *pro se* complaint pursuant to 42 U.S.C. § 1983, accompanied by a motion seeking leave to proceed *in forma pauperis*. (ECF Nos. 1 & 2.) In an order issued May 9, 2014, the Court granted leave to proceed *in forma pauperis* and assessed the civil filing fee pursuant to the Prison Litigation Reform Act (“PLRA”), 28 U.S.C. §§ 1915(a)-(b). (ECF No. 4.) That order also directed Plaintiff to “notify the Court immediately, in writing,” of any change of address and warned him that failure to do so could result in “dismissal of this action, without any additional notice or hearing by the Court.” (*Id.* at 3.)

On February 13, 2015, the Court issued an order that, *inter alia*, dismissed the complaint for failure to state a claim and granted leave to file a second amended complaint within twenty-eight days. (ECF No. 10.) The order notified Plaintiff that, if he “fails to file a second amended complaint within the time specified, the Court will assess a strike pursuant to 28 U.S.C. § 1915(g)

and enter judgment.” (*Id.* at 10.) However, on February 25, 2015, the order sent to Plaintiff was returned as undeliverable, marked “return to sender inmate discharged.” (ECF No. 11 at 2.) Plaintiff has failed to notify the Court of any change of address. Therefore, because it appears he has now abandoned this action, judgment will be entered in accordance with the February 13 order of dismissal.

It is CERTIFIED, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal in this matter by Plaintiff would not be taken in good faith. Leave to proceed *in forma pauperis* is DENIED.

For analysis under 28 U.S.C. § 1915(g) of future filings, if any, by Plaintiff, this is the first dismissal of one of his cases as frivolous or for failure to state a claim. This “strike” shall take effect when judgment is entered. *Coleman v. Tollefson*, 733 F.3d 175, 177-78 (6th Cir. 2013), *cert. granted*, 135 S. Ct. 43 (2014) (Nos. 13-1333, 13A985).

The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ James D. Todd  
JAMES D. TODD  
UNITED STATES DISTRICT JUDGE